


Memory Wars: The Polish-Ukrainian Battle about History

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On 06 February 2018 the President of Poland signed a scandalous bill – an Amendment to the Act on the Institute of National Remembrance – which introduces criminal responsibility (up to three years of imprisonment) for the denial of crimes committed by the Ukrainian nationalists in 1943-5, including the Volyn genocide. This bill has been approved despite the officially expressed Ukrainian ‘concern regarding the attempts to portray Ukrainians exclusively as “criminal nationalists” and “collaborators of the Third Reich”’ and call not to incite the conflict ‘between traditionally friendly Ukrainian and Polish peoples’. These events show that the conflict between Ukraine and Poland over the interpretation of controversial historical events of World War II is going deeper. Moreover, it has reached a point to be classified as ‘memory war’.

The recent political initiatives from the both sides have destroyed the first achievements of the Ukrainian-Polish dialogue on mutual repentance, forgiveness and commemoration of the innocent victims killed during the conflict in 1940s: Ukrainians and Poles. The quest for reconciliation has been reflected in a number of joint statements: by the Presidents of Ukraine and Poland ‘On Concorde and Reconciliation’ on May 21, 1997; by the Parliaments of Ukraine and Poland on the 60th Anniversary of the Volyn Tragedy on July 10, 2003; by the Presidents of Ukraine and Poland ‘On Reconciliation on the 60th Anniversary of the Volyn Tragedy’ on July 11, 2003; by the Greek-Catholic bishops of Ukraine and Roman-Catholic bishops of Poland on the Act of mutual forgiveness and reconciliation on June 2005; by the Presidents of Ukraine and Poland on the occasion of the 60th anniversary of the Wisla event on April 27, 2007; by the Ukrainian Greek-Catholic Church and the Roman-Catholic Church on the 70th anniversary of the Volyn crime on June 28, 2013.

In April 2015, Ukraine adopted the so-called decommunisation package. It consists of four laws, one of which – the Law On the Legal Status and Honoring the Memory of Fighters for Ukrainian’s Independence in the Twentieth Century (Law on fighters) – caused pained reaction in Poland.

The list of ‘fighters’ provided by the Article 1 includes all structures, organizations and persons who participated in the ‘fight for independence’ in the period from the October revolution to the collapse of the Soviet Union: it begins with the Ukrainian People’s Republic of 1918 and ends with the People’s Movement for Perestroika (Narodniy Rukh). The Law on fighters has been criticized from a historical perspective for causing conceptual confusion and for being too simplistic to be taken seriously. For instance, the Law puts the Organization of Ukrainian Nationalists (OUN), the Ukrainian Insurgent Army (UPA) – the most extreme political groups in Western Ukraine between the wars, which collaborated with Nazi Germany at the outset of the Soviet invasion in 1941 – and the Ukrainian Helsinki Group on equal footing.

Article 2 of the Law on fighters proclaims that Ukraine ‘considers as legal all forms and methods of struggle for its independence in the twentieth century’. This is a dangerous

statement as it means that the state is not ready to admit its past wrongdoings and condemn them. On the contrary, to preserve the positive image of fighters Ukraine will hold responsible those who 'publicly display a disrespectful attitude' toward them and 'publicly deny the legitimacy of the struggle for the independence of Ukraine'.

It should be noted that the Law does not determine the meaning of 'disrespectful attitude' nor does it specify the liability measures to be used. Literally, it says this: 'Ukrainian nationals, foreigners and stateless persons who publicly express disrespect for those stipulated in Article 1 of this law ... bear liability in accordance with current Ukrainian legislation. Public denial of the legitimacy of the struggle for Ukraine's independence in the twentieth century is deemed desecration of the memory of fighters for Ukraine's independence in the twentieth century, denigration of the dignity of the Ukrainian people and is unlawful.'

Due to its unclear wording the practical legal application of the Law is quite problematic. Yet, it is still able to suppress questions about crimes committed by 'fighters' – their collaboration with Nazis, involvement in extermination of the Poles and Jews. The Law on fighters has made it impossible to continue an open Ukrainian-Polish dialogue on the legacy of World War II, particularly, the Volyn events: a claim that the OUN and the UPA participated in murders of Polish civilians in the Volyn region can be deemed as 'denigration' of the Ukrainian people.

In July 2016, the Polish parliament adopted a Resolution 'On the Perpetuation of the Memory of Victims of Genocide Committed by the Ukrainian Nationalists Against the Citizens of the Second Rzeczpospolita in 1943-1945', which recognized the Volyn massacre a 'genocide' and declared 11 July the National Day of Volyn Genocide Victims Remembrance. This resolution was an answer to the Ukrainian attempts to glorify the OUN-UPA whose units were involved in crimes against the Poles. In its turn, the Verkhovna Rada, the Parliament of Ukraine, issued a Statement on Resolution on Volyn Tragedy approved by the Polish Senate and Sejm on July 7 and 22, 2016 blaming Poland of the 'politicization of tragic chapters of the Ukrainian-Polish history'. The document also stressed that the adoption of the Resolutions the Polish Parliament coincided with anti-Ukrainian events in Poland and that 'triggering of anti-Ukrainian moods take(s) place at a time of most considerable sensitivity of the Ukrainian State suffering from the aggressive actions of the Russian Federation' in which the aggressor uses historic issues 'as one of the elements of the war against our State'.

There is a danger that the current Polish initiatives to penalize the denial of the crimes committed by the Ukrainian Nationalist in 1943-5 will push Ukraine to use the Criminal Code to protect 'dignity of fighters'. Following the destructive logic of memory wars Ukraine can realize unclear threat of punishment for 'disrespectful attitude' by actual criminal sanctions. It is easier to start a war than to end it, and that includes memory wars...

The Polish-Ukrainian conflict on memory is a deplorable result of political abuse of history from both sides: the two countries strive to monopolize the past to glorify their history and protect their national dignity. They simplify complex events to construct historical narratives which describe themselves as heroes or victims but never perpetrators. Thereby, both states violate basic principles of freedom of speech.

The Polish-Ukrainian case proves well that a clash of historical narratives should not be solved with the use of criminal sanctions. Criminal law, by its very nature, is an ill-suited moderator for public discussion on history but a powerful and dangerous weapon in memory wars which pose a threat of fueling real conflicts in the future. The escalation of memory wars should challenge Europe to reconsider its principles of mnemopolitics including a ban of the use criminal sanctions as a means of politics of memory.

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